

**UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA**

1) <b>DR. FRED BLYTHE and</b>	)	
2) <b>RUTH BLYTHE,</b>	)	
<b>husband and wife,</b>	)	
	)	<b>Case No. 13-CV-160-JED-PJC</b>
<b>Plaintiffs,</b>	)	
	)	
<b>vs.</b>	)	<b>(formerly Tulsa County, Oklahoma</b>
	)	<b>Court Case No. CJ-2013-01186)</b>
1) <b>ESSENTIA INSURANCE COMPANY,</b>	)	
	)	
<b>Defendant.</b>	)	

**NOTICE OF REMOVAL**

Defendant, Essentia Insurance Company (“Essentia”), pursuant to 28 U.S.C §§1441, 1446(a) and (d), hereby removes to this Federal Court the case styled *Dr. Fred Blythe and Ruth Blythe, husband and wife, vs. Essentia Insurance Company*, No. CJ-2013-01186, from the District Court of Tulsa County, Oklahoma (the “State Court Case”). In support of this Notice of Removal, Defendant states as follows:

- 1) On March 6, 2013, Plaintiffs filed the State Court Case.
- 2) Plaintiffs’ Petition alleges bad faith breach of an insurance contract issued to Plaintiffs by Essentia.
- 3) Upon information and belief, Plaintiffs are residents and citizens of Tulsa, Tulsa County, Oklahoma; Essentia is an insurance company organized and existing under the laws of the State of Missouri with its principal place of business in Canton, Massachusetts. Essentia has never been incorporated in Oklahoma nor has it ever had its principal place of business in Oklahoma.
- 4) The amount in controversy exceeds the amount required for diversity jurisdiction as indicated in Plaintiffs’ Petition (“Exhibit A”).

5) Therefore, this action meets the removal requirements and this Court has original subject matter jurisdiction under 28 U.S.C. § 1332.

6) Written notice of this removal will be given to Plaintiffs and a copy will be filed in the State Court Case after this Notice of Removal is filed pursuant to 28 U.S.C. § 1446(d).

7) As of filing of this Removal Notice, there are no hearings set on this matter in the State Court Case.

8) Copies of all process, pleadings and orders in the State Court Case and a copy of the docket sheet of the State Court Case, are attached to this Notice of Removal collectively as Exhibit "A", in accordance with 28 U.S.C. § 1446(a) and Local Rule LCvR81.2.

WHEREFORE, Defendant, Essentia Insurance Company, removes this case from the District Court of Tulsa County, Oklahoma, to the United States District Court for the Northern District of Oklahoma.

**JURY TRIAL DEMANDED.**

Respectfully submitted,

/s/ Thomas M. Askew

Thomas M. Askew, OBA #13568  
Wm. Gregory James, OBA # 4620  
Sharon K. Weaver, OBA #19010  
RIGGS, ABNEY, NEAL, TURPEN,  
ORBISON & LEWIS  
502 West 6<sup>th</sup> Street  
Tulsa, OK 74119-1010  
(918) 587-3161  
(918) 587-9708 (Facsimile)  
*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

I certify that on the 18<sup>th</sup> day of March, 2013, a copy of this pleading was served upon the following by ( ) E-mail; ( X ) regular mail; ( ) facsimile; ( ) hand delivery:

Thomas L. Baker, OBA #11054  
The Baker Law Firm, PLLC  
12315 E. 86<sup>th</sup> St. North  
Owasso, OK 74055  
(918) 274-1818  
(918) 274-8383 (Facsimile)  
*Attorney for Plaintiff*

/s/ Thomas M. Askew



IN THE DISTRICT COURT IN AND FOR TULSA COUNTY  
STATE OF OKLAHOMA

DISTRICT COURT  
**FILED**

MAR - 6 2013

DR. FRED BLYTHE and  
RUTH BLYTHE, husband and wife,

Plaintiffs,

vs.

ESSENTIA INSURANCE COMPANY,

Defendant.

SALLY HOWE SMITH, COURT CLERK  
STATE OF OKLA. TULSA COUNTY

**CJ-2013-01186**

Case No.

Rebecca Brett Nightingale

ATTORNEY LIEN CLAIMED

PETITION

COME NOW the Plaintiffs, Dr. Fred Blythe and Ruth Blythe, husband and wife,  
and for their causes of action against the Defendant allege and state:

I. They are the Plaintiffs under a Classic Boat Policy numbered MQ5Q07124  
issued by the Defendant.

II. The insurance policy covers a 1965 Chris Craft Constellation with an agreed  
value of \$61,000.00.

III. On or about October 24, 2012, the 1965 Chris Craft sank while moored in  
a slip at Grand Lake.

IV. The sinking caused the total loss of the boat valued by agreement at  
\$61,000.00, the total loss of personal effects valued by agreement at \$2,500.00, caused Plaintiffs to  
incur the cost of recovery and preservation of the motors and generators at a cost of \$6,458.08, plus  
Plaintiffs have accrued, and are accruing \$100.00 in storage per month and will until the claim is  
resolved.

V. Despite timely and proper notice of the claim, the Defendant has failed to  
honor the contract of insurance and pay the monies due.



2013 MAR - 6 PM 12:49

VI. Despite timely and proper notice of the claim, the Defendant failed to timely and properly investigate the loss, failed to grant Plaintiffs their rights due under the policy and the laws of the State of Oklahoma, and denied the claims in bad faith and with reckless disregard of the rights of the Plaintiffs causing additional damages and entitling Plaintiffs to punitive damages to deter the Defendant from further similar conduct.

WHEREFORE, Plaintiffs pray for actual damages against the Defendant in the amount of \$69,958.08, actual damages in excess of \$10,000.00, and punitive damages in excess of \$10,000.00. Together, these damages exceed \$75,000.00, the amount required for diversity jurisdiction in the federal court system, interest, costs, attorney fees, and all and any other relief to which the court deem them entitled.

Respectfully Submitted,

THE BAKER LAW FIRM, PLLC

BY: 

THOMAS E. BAKER, OBA #11054

12315 E. 86<sup>th</sup> St. N.

Owasso, Oklahoma 74055

Telephone: (918)274-1818

Facsimile: (918)274-8383

Attorney for Plaintiffs



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### IN THE DISTRICT COURT IN AND FOR TULSA COUNTY, OKLAHOMA

DR FRED BLYTHE, Plaintiff, and RUTH BLYTHE, Plaintiff, v. ESSENTIA INSURANCE COMPANY, Defendant.	No. CJ-2013-1186 (Civil relief more than \$10,000: BAD FAITH INSURER LIABILITY)  Filed: 03/06/2013  Judge: Nightingale, Rebecca B.
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### Parties

BLYTHE, DR FRED , Plaintiff  
BLYTHE, RUTH , Plaintiff  
ESSENTIA INSURANCE COMPANY , Defendant

### Attorneys

**Attorney**  
BAKER, THOMAS E(Bar # 11054)  
12315 E. 86TH ST N  
OWASSO, OK 74055

**Represented Parties**  
BLYTHE, DR FRED  
BLYTHE, RUTH

### Events

Event	Party	Docket	Reporter
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### Issues

For cases filed before 1/1/2000, ancillary issues may not appear except in the docket.

#### Issue # 1.

Issue: BAD FAITH INSURER LIABILITY (INSURE)  
Filed by: BLYTHE, DR FRED  
Filed Date: 03/06/2013

**Party Name:**

**Disposition Information:**

**Defendant:** ESSENTIA INSURANCE COMPANY Pending.

#### Issue # 1.

Issue: BAD FAITH INSURER LIABILITY (INSURE)  
Filed by: BLYTHE, RUTH  
Filed Date: 03/06/2013

**Party Name:**

**Disposition Information:**

**Defendant:** ESSENTIA INSURANCE COMPANY Pending.

### Docket

Date	Code	Count	Party	Serial #	Entry Date		
03-06-2013	TEXT	1		84721387	Mar 6 2013 12:45:57:387PM	-	\$ 0.00

CIVIL RELIEF MORE THAN \$10,000 INITIAL FILING.

03-06-2013	INSURE	-	84721389	Mar 6 2013 12:45:57:437PM	Realized	\$ 0.00
	BAD FAITH INSURER LIABILITY					
03-06-2013	DMFE	-	84721390	Mar 6 2013 12:45:57:457PM	Realized	\$ 2.00
	DISPUTE MEDIATION FEE(\$ 2.00)					
03-06-2013	PFE1	-	84721391	Mar 6 2013 1:12:48:897PM	Realized	\$ 163.00
	PETITION(\$ 163.00)					
	 <u>Document Available (#1020494633)</u>					
03-06-2013	PFE7	-	84721392	Mar 6 2013 12:45:57:457PM	Realized	\$ 6.00
	LAW LIBRARY FEE(\$ 6.00)					
03-06-2013	OCISR	-	84721393	Mar 6 2013 12:45:57:457PM	Realized	\$ 25.00
	OKLAHOMA COURT INFORMATION SYSTEM REVOLVING FUND(\$ 25.00)					
03-06-2013	CCADMIN02	-	84721394	Mar 6 2013 12:45:57:457PM	Realized	\$ 0.20
	COURT CLERK ADMINISTRATIVE FEE ON \$2 COLLECTIONS(\$ 0.20)					
03-06-2013	OCJC	-	84721395	Mar 6 2013 12:45:57:457PM	Realized	\$ 2.00
	OKLAHOMA COUNCIL ON JUDICIAL COMPLAINTS REVOLVING FUND(\$ 2.00)					
03-06-2013	OCASA	-	84721396	Mar 6 2013 12:45:57:457PM	Realized	\$ 5.00
	OKLAHOMA COURT APPOINTED SPECIAL ADVOCATES(\$ 5.00)					
03-06-2013	CCADMIN04	-	84721397	Mar 6 2013 12:45:57:457PM	Realized	\$ 0.50
	COURT CLERK ADMINISTRATIVE FEE ON COLLECTIONS(\$ 0.50)					
03-06-2013	LTF	-	84721398	Mar 6 2013 12:45:57:547PM	Realized	\$ 10.00
	LENGTHY TRIAL FUND(\$ 10.00)					
03-06-2013	SMF	-	84721399	Mar 6 2013 12:45:57:587PM	Realized	\$ 5.00
	SUMMONS FEE (CLERKS FEE)(\$ 5.00)					
03-06-2013	SMIMA	-	84721400	Mar 6 2013 12:45:57:617PM	Realized	\$ 0.00
	SUMMONS ISSUED - MAILED BY ATTORNEY					
03-06-2013	TEXT	-	84721388	Mar 6 2013 12:45:57:417PM	-	\$ 0.00
	OCIS HAS AUTOMATICALLY ASSIGNED JUDGE NIGHTINGALE, REBECCA B. TO THIS CASE.					
03-06-2013	ACCOUNT	-	84721418	Mar 6 2013 12:47:01:447PM	-	\$ 0.00
	RECEIPT # 2013-2551749 ON 03/06/2013.					
	PAYOR:BAKER LAW FIRM PLLC TOTAL AMOUNT PAID: \$218.70.					
	LINE ITEMS:					
	CJ-2013-1186: \$168.00 ON AC01 CLERK FEES.					
	CJ-2013-1186: \$6.00 ON AC23 LAW LIBRARY FEE.					
	CJ-2013-1186: \$0.70 ON AC31 COURT CLERK REVOLVING FUND.					
	CJ-2013-1186: \$5.00 ON AC58 OKLAHOMA COURT APPOINTED SPECIAL ADVOCATES.					
	CJ-2013-1186: \$2.00 ON AC59 OKLAHOMA COUNCIL ON JUDICIAL COMPLAINTS REVOLVING FUND.					

CJ-2013-1186: \$2.00 ON AC64 DISPUTE MEDIATION FEES.  
CJ-2013-1186: \$25.00 ON AC79 OCIS REVOLVING FUND.  
CJ-2013-1186: \$10.00 ON AC81 LENGTHY TRIAL FUND.

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03-15-2013 S	-	84827423	Mar 15 2013 10:50:12:650AM	-	\$ 0.00
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PARTY HAS BEEN SUCCESSFULLY SERVED. / SUMMONS SERVED FOR OKLAHOMA  
INSURANCE COMMISSIONER, CERTIFIED MAIL, SIGNED SABRINA S, ON 3-11-13

 *Document Unavailable (#1021096806)*

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